

H.B. DANIELS
I Concur WADE CHURCH
I Concur LES HARDY

April
5
1960

C.G. Salsbury, M.D.
Commissioner
Arizona State Department
of Health
Phoenix, Arizona

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

Dear Doctor Salsbury:

This is in reply to your letter dated March 28, 1960, relating to the premarital Act of 1956.

For convenience, we are re-writing the question presented to us for review. The question, as we see it, is:

"Are naturopaths and chiropractors duly qualified physicians as that term is used in A.R.S. § 25-103.03 ?"

This question, we think, must find its answer in the statutes describing and controlling these practitioners of medicine, and the Premarital Act, as well as the decisions of the courts and the Opinion of the Attorney General of California.

To begin with, both the naturopath and chiropractor are non-surgical, drugless healers. See also, A.R.S. § 32-925; A.R.S. § 32-1501.

The medical practitioner and the osteopathic physician and surgeon are unlimited in the scope of their practice. See A.R.S. § 32-1402 and Gates v. Kilcrease, 66 Ariz. 328; A.R.S. § 32-1852. The two latter practitioners may legally do surgical work. Gates v. Kilcrease, supra. This is not true either of the naturopath or chiropractor.

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The term "physician" to which the Premarital Act refers is a practitioner of medicine who can extract blood from the human body. A.R.S. § 25-103.01, reads as follows:

"Section 25-103.01. Necessity for examination; presentation of certificate; contents of certificate; consent to examination; submission of specimen.

A. Before any person, who is or may hereafter be authorized by law to issue marriage licenses, shall issue any such license, each applicant therefor shall file with him a certificate from a duly licensed physician which certificate shall state that the applicant has been given such examination, including a standard serological test, as may be necessary for the discovery of syphilis, made not more than thirty days or less than forty-eight hours prior to the date of issuance of such license, and that, in the opinion of such physician, the person either is not infected with syphilis, or if so infected, is not in a stage of that disease which is or may become communicable to the marital partner.

B. Any person who by law is validly able to obtain a marriage license in the state of Arizona is validly able to give consent to any examinations and tests required by this article. In submitting the blood specimen to the laboratory the physician shall designate that this is a premarital test."

The inference from reading the above Act is that the physician must be responsible for the taking of the blood specimen from the applicant. This is in a sense minor surgery. The chiropractor and naturopath are prohibited from doing surgical work.

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Clearly then, the term "duly licensed physician" as used in the Premarital Act, did not contemplate non-surgical and non-drugless physicians.

Our Premarital Act is the same as the California Act. This same question was asked of the Attorney General of California. That office held, in Opinion No. 171, that a chiropractor was not within the meaning of a "duly licensed physician" as used in the Premarital Act. It further held that to accept a certificate signed by such a physician is in violation of the Premarital Act. While this Opinion is not conclusive, it is nevertheless regarded as highly persuasive in view of the fact that the two Premarital Acts are almost identical.

For the reasons above discussed, it is the opinion of this office that naturopaths and chiropractors are not "duly qualified physicians," as that term is used in A.R.S. § 25-103.03.

We hope that this information proves helpful. If we can be of further service, please let us know.

Very truly yours,

HBD:s

WADE CHURCH
The Attorney General

H.B. DANIELS
Assistant Attorney General

60-58-2

Letter Opinion No. 60-58-L
(Supplement to Letter Opinion
April 5, 1960)

April 29, 1960

Dr. Weldon F. Baker,
-Secretary-Treasurer-
ARIZ. NATUROPATHIC PHYSICIANS
713 North Second Street
Phoenix, Arizona

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

Dear Dr. Baker:

This is in response to your inquiry of April 25, 1960:

Question: Are naturopaths duly qualified physicians within the meaning of A.R.S. Sec. 25-103.03 where they do not extract blood but have the required standard serological test made by a laboratory?

Answer: Yes, if they do not prescribe drugs or perform surgical operations.

A naturopath is limited by statutory definition to "drugless and non-surgical methods." Sec. 32-1501, Arizona Revised Statutes (1956). They can do all other things authorized for the practice of medicine and surgery, except the aforesaid exceptions. Kuts-Cheraux v. Wilson, 71 Ariz. 461, 229 Pac (2d) 713, p. 713.

The requirements under Sec. 25-103.03, Arizona Revised Statutes (1956), as amended, involve the obtaining of a certificate by a person intending marriage stating that he is free from syphilis. The serological test is rigidly restricted and may only be given by laboratories approved by the Arizona State Department of Health. There is a serious question whether a medical physician could make the test under the provisions of the Code. Therefore, a "physician" under this section would be used in a general sense, and his task would be limited to sending a person to an approved laboratory, secure a syphilis test, read the test and advise his client. If the naturopath did not draw blood, then the answer is even more clearly - yes.

Dr. Weldon F. Baker
April 29, 1960
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Our Opinion Letter of April 5, 1960 to Dr. C. G. Salsbury would clearly not apply to a naturopath who obtained the required standard serological test from a laboratory approved by the Arizona State Department of Health, and then advised his client of the results.

With cordial best wishes.

(s) Wade Church

Wade Church
Attorney General

WC:sma

Supp 60-58-2



DEPARTMENT OF LAW
OFFICE OF THE
Attorney General
STATE CAPITOL
Phoenix, Arizona

OFFICE OF THE
ATTORNEY GENERAL
WADE CHURCH
60-58-1
WADE CHURCH ORIGINATOR

April 29, 1960

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-Secretary-Treasurer-
ARIZ. NATUROPATHIC PHYSICIANS
713 North Second Street
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Our Opinion Letter of April 5, 1960 to Dr. C. G. Salisbury would clearly not apply to a naturopath who obtained the required standard serological test from a laboratory approved by the Arizona State Department of Health, and then advised his client of the results.

With cordial best wishes.

Wade Church
Wade Church
Attorney General

WC:sma